

ATTACHMENT A

United States Egg Marketers, Inc.



United States Egg Marketers, Inc.



**Who is USEM
and what does it do?**

United States Egg Marketers, Inc.



- A nonprofit association of farmers that services its members' exports of surplus eggs

The Exported Eggs Were Surplus Eggs



Marcus Rust:

Q. What are surplus eggs?

A. That's eggs that you don't have a market for tomorrow or next week or the week after.

Greg Hinton:

Q. Surplus. Is that the term you use to describe when you have too many eggs?

A. Yes. We call them surplus eggs.

Testimony of M. Rust (11-08-2023) at 4370:14-4370:25; G. Hinton (11-07-2023) at 4104:5-4104:7

USEM Refused Exports When There Was No Surplus



different periods to form (1) separate European customers. They pointed that when viewed in total, that USEM had not taken orders at less than breaking stock value.

Report of Nominating Committee: Chuck Dynes reported that the committee met via conference call on September 10th. He reported that the committee would like to recommend that the number of members of the Executive/Export Committee be increased to 13 members. He submitted the following motion:

Motion: It was moved by Dynes and seconded by DeVries to change the by-laws to read that the Executive/Export Committee be expanded to 13 members so that all geographically regions could be represented. Carried.

Dynes then submitted a slate of nominations for the members of the Executive/Export Committee. **Motion:** It was moved by Dynes and seconded by Brock to elect Paul Bohan - Robin Baker - Jim Brock - Gregg Chase - Chuck Elton - Joe Fortin - Wayne Mene - There being no further nominations, the slate.

Election of Officers: Dynes then motioned. **Motion:** It was moved by Dynes to elect officers. Motion carried.

Chairman - Larry Seger
Vice Chairman - Benji DeVries
Secretary - Roger Deffen
Treasurer - Jim Brock

Future Export Opportunities: Seger reports interest in purchasing eggs for delivery had their support for an export and their concern. Some expressed concern that we might be greater than 90 cents per dozen were discussed.

After considerable discussion, it became a consensus until after the first of the year. **Adjourn:** There being no further business.

Recorded by: Gene Gregory

Future Export Opportunities: Seger reported that three (3) European customers had expressed interest in purchasing eggs for delivery before the end of 2003. The members expressed both their support for an export and their concerns for the inability of filling an export at this time. Some expressed concern that we might be short of eggs to even fill the domestic demand. Prices greater than 90 cents per dozen were discussed.

After considerable discussion, it became a consensus of the members that we not enter into any negotiations until after the first of the year of 2004.

Exhibit P 635

United States Egg Marketers, Inc.



- A nonprofit association of farmers that services its members' exports of surplus eggs
- Opens up a market for egg producers to sell surplus eggs

United States Egg Marketers, Inc.



- A nonprofit association of farmers that services its members' exports of **surplus** eggs
- Opens up a **market** for egg producers to sell surplus eggs
- Arranges **bulk** exports

United States Egg Marketers, Inc.



- A nonprofit association of farmers that services its members' exports of **surplus** eggs
- Opens up a **market** for egg producers to sell surplus eggs
- Arranges **bulk** exports
- Navigates the **complicated** and **time-consuming** export process

General Mills Recognizes Legitimate Reasons to Export



Binh Tran
Sourcing Director for
General Mills

Factors that may lead a U.S. egg producer to conclude that it's in its interest to export eggs to Europe or Asia:

- Stricter animal welfare laws in Europe
- High energy costs (encourage export shipments of high value products like eggs)
- Bird flu concerns
- Currency benefits; weak dollar

Binh Tran testimony at 173:19-174:21


United States Egg Marketers, Inc.



**The breakers'
demand for surplus
eggs dwindles**

Traditionally Egg Producers Sold Their Surplus Eggs to the Egg-Breaking Sector





United Voices
Gene Gregory – Editor

Egg Industry "Economic Summit"

HIGHLIGHTS OF THIS ISSUE
* Economic Summit

Redacted

UNITED EGG PRODUCERS
1720 Winthrop Commons
Suite 220
Alpharetta, GA 30005
Phone: (770) 360-9220
FAX: (770) 360-7095
info@unitedegg.com
http://www.unitedegg.com

November 23, 2004

Ex. 0599 Pg. 0001

Shell egg producers have in the past, considered demand from only the perspective of consumer demand and looked upon the egg-breaking sector as a market for surplus eggs.

Information shared by speakers for the egg-breaking sector providing some **shocking news about the trends** of this side of the business. Among their many observations were the following:

- The trend in egg breaking/egg products is in-line production, growth in upper Midwest states, and dedicated supply.**
- Companies dedicated to egg breaking are becoming more self-sufficient. The trend is that breakers will not be a buyer of shell eggs but instead will likely be a surplus seller of eggs into the shell egg market. A drastic change from the days when shell egg producers could move their surplus into the breaker market.**
- It was estimated that 20 egg breaking companies now have in-line production/breaking and the trend is to follow the shell egg industry by building more in-line systems.**
- The number of layers needed for breaking has increased by 5 million since 2000 while the number of layers in Iowa, of which most are dedicated to breaking, has increased by 16 million and another 5 million will be added during 2005.**
- More than 50% of egg product sales are now negotiated on some basis other than using the Umer Barry quotes.**

Exhibit P599

Breakers' Demand For Surplus Eggs In US Decreases



To: Don Bell(don@bell@charter.net)
 From: Gene Grigory
 Sent: Fri 12/20/04 3:21:44 PM
 Subject: Iowa Meeting

Don,

I finally found time to read through all your power point slides for the Iowa meeting. Rather impressive. Even with this good information, it is doubtful that the expansion will slow down in Iowa.

We are beginning to see a major division between the shell egg and egg products industry.

More and more egg breaking companies are building in-line production farms to build these facilities and sell liquid eggs to Michael Foods or Sunny Fresh Foods. Michael Foods has openly said that this trend will continue and they have no or very little regard to how this will impact egg prices. Most of Michael Foods sales to end-users are based upon something other than the Urner Barry quote. Their contracts with the farms producing eggs or liquid eggs for them are on cost-plus deals. Michael Foods does not accept (or care) the fact that their expansion is having a negative impact upon all egg prices.

Michael Foods has openly said that as this trend continues that egg breaking companies will no longer buy surplus eggs from shell egg producers but instead will sell eggs into the shell egg markets when shell egg prices are high or when the egg breaker has surplus production. The days when shell egg producers could move surplus eggs to the breakers is diminishing very quickly and shell egg producers have to recognize that they are losing a market for some of their eggs.

Gene

We are beginning to see a major division between the shell egg and egg products industry.

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The days when shell egg producers could move surplus eggs to the breakers is diminishing very quickly and shell egg producers have to recognize that they are losing a market for some of their eggs.

Exhibit P401

United States Egg Marketers, Inc.



Losses

Exports Did Not Always Happen at a Loss



- **Surplus eggs**

Exports Did Not Always Happen at a Loss



- **Surplus eggs – no evidence that there was a ready and willing buyer in the United States for these eggs**

Dr. Baye Admitted He Does Not Know What the Destination of the Exported Eggs Would Have Been Absent the Export



Dr. Michael Baye

“The challenge here for, you know, exactly quantifying the effect is I don’t know for sure what the destination of each of these eggs were. You know, some of them might have been destined for egg products. They might have been nest run eggs. Some of them might have been destined for cartons. **I just don’t really know.”**

Testimony of Michael Baye at 2592:8-13

Exports Did Not Always Happen at a Loss



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- **The market often changed after the decision to export was made**

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- **Binh Tran: The Urner Barry price changed “daily”**

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- **The market often changed after the decision to export was made**
- **Marcus Rust: “You can go from being long to short in a 24 hour- period.”**
- **Binh Tran: The Urner Barry price changed “daily”**
- **Defendants refused exports that were too low**

USEM Was Selective About The Export Price



Conference Call of USEM Export Committee October 22, 2007

Minutes

Call To Order: Chairman Larry Seger called the meeting to order at 2:00 PM with the following present:

Larry Seger - Chuck Elise - Jim Brock - Gregg Clinton - Roger Deffen - Bob Pike - David Thompson - Derek Yancy - Marcus Runt - Fred Adams - Phyllis Blizard - Kevin Haley - Linda Rickard - Gene Gregory

Seger stated the purpose of the call was because he felt a decision had been reached without all considerations of the market place and without sufficient input from all members. He stated that we have not normally taken an export when prices are as profitably as they currently are and to discount the sale by a minimum of 20 cents per dozen could cause a problem with our retail and breaking customers. He therefore had requested a conference call of the export committee to discuss the motions in Chicago.

Seger called on each member to express their view of whether the timing was right to take an export and if so at what price. After considerable discussion, the following motions were made:

Motion: It was moved by Jim Brock and seconded by Fred Adams to rescind the motion for export sales approved in Chicago. Carried.

Motion: It was moved by Fred Adams and seconded by Gregg Clinton to continue the sale of eggs post Thanksgiving at 80 cents per dozen and 200 loads post Christmas. Carried.

It was requested by Gregory to offer the eggs to Jargen Fuchs and Steve Maston if consideration for the work they have been doing to help us resolve the export note in Europe. If they were not interested then the opportunity would be made available. There being no further business, the meeting adjourned at 3:10 PM.

Recorded by: Gene Gregory

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Motion: It was moved by Jim Brock and seconded by Fred Adams to rescind the motion for export sales approved in Chicago. Carried.

Exhibit D500

United States Egg Marketers, Inc.



**The alleged
conspirators could not
approve an export**

The Alleged Co-Conspirators Could Not Approve An Export



UNITED STATES EGG MARKETERS (USEM)
EXECUTIVE/EXPORT COMMITTEE
CONFERENCE CALL
September 10, 2001
MINUTES

The meeting was called to order at 3:00 PM Eastern Time with the following being present:
Larry Seger – Butch DeVries – Paul Braham – Dolph Baker – Jim Biggers – Gregg Clanton
Jim Dean – Wayne Mooney – Dave Staples – Joe Ferlin – Jim Brock – Gene Gregory
Phyllis Blizard – Billie Jo Corell – Chad Gregory – Al Pope

Chairman Seger reported the purpose of the call was to discuss the potential for an export shipment of 10 – 15 container loads to Europe beginning either the week of September 17th or 24th over a three-week period.

Seger reported the price of eggs delivered in an export case to an East Coast port would be 25 cents per dozen thereby netting those members shipping eggs 20 cents per dozen plus 5¢ value of equalized freight. Those asking UEP to purchase eggs to fill their share would be assessed the difference between a 25 cent price and the purchase price.

After considerable discussion the following motion was made:

MOTION: It was moved by Biggers and seconded by Braham to accept the order of 10 loads for delivery over a three-week period beginning September 17th or 24th.

Seger called for a voice vote:

Those voting yes were: Staples – Mooney – DeVries – Brock – Braham – Baker – Biggers

Those voting no were: Ferlin – Clanton – Dean – Seger

The motion carried with a 7 – 4 vote.

Gene Gregory reported that the order must be accepted by a majority of the membership thereby requiring approval by 34 members. He announced that a fax would be sent to all members requiring their immediate reply.

There being no further business to come before the committee, it was adjourned at 3:40 PM.

Recorded by: Gene Gregory

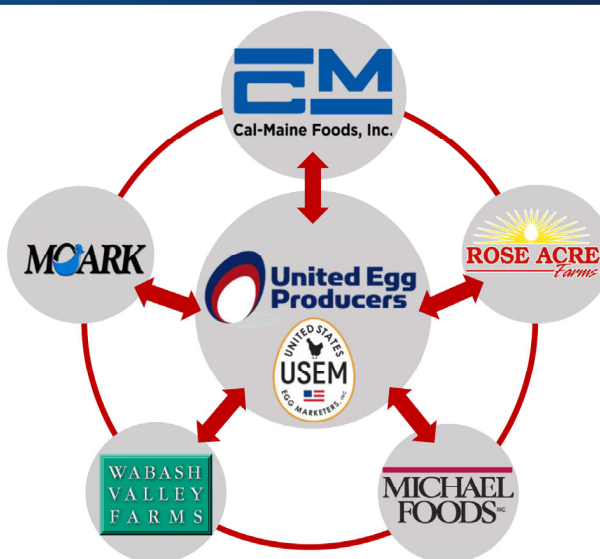
Gene Gregory reported that the order must be accepted by a majority of the membership thereby requiring approval by 34 members. He announced that a fax would be sent to all members requiring their immediate reply.

Exhibit P229

The Alleged Conspirators



The Conspiracy



13

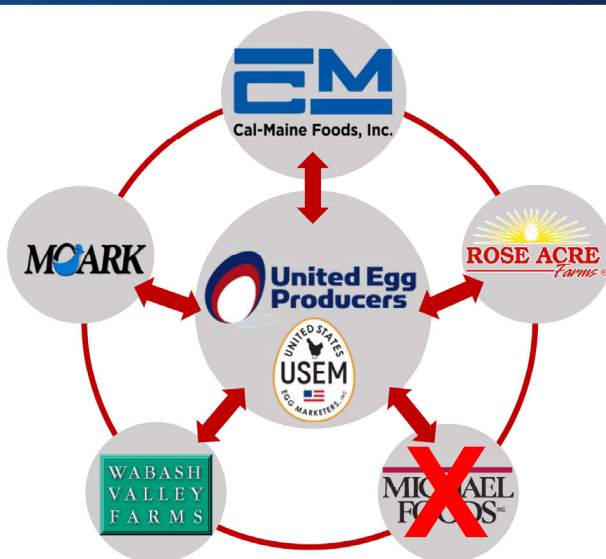
Exhibit Slide 13 of Plaintiffs' Opening Deck

24

Michael Foods was Not a U.S. Egg Marketers Member



The Conspiracy



13

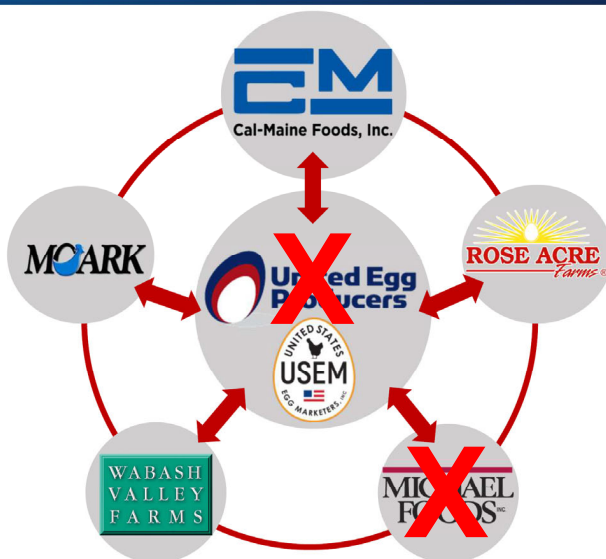
Exhibit Slide 13 of Plaintiffs' Opening Deck

25

UEP was not a Member of U.S. Egg Marketers



The Conspiracy



13

Exhibit Slide 13 of Plaintiffs' Opening Deck

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United States Egg Marketers, Inc.



INJURY

No Impact on Prices



Dr. Jonathan Walker

Q. Now, for the -- for the three USEM exports that were sold -- that -- where the export price was below the breakeven price, how significant were the -- were they in terms of the total U.S. production at that point?

...

A. Yes. They were each roughly one and a half -- one-half to one and a half percent of monthly U.S. consumption in the months in which they occurred.

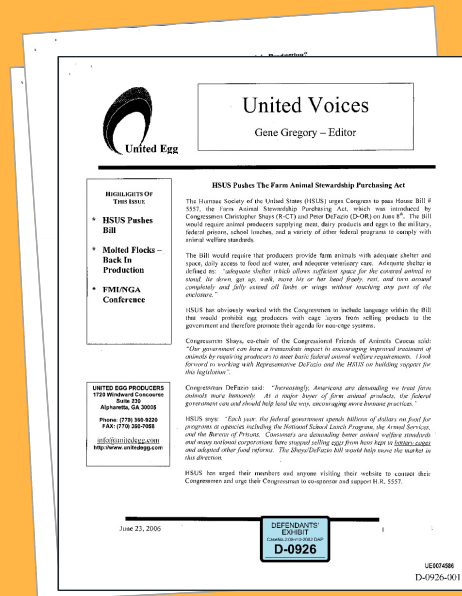
Testimony of Dr. Jonathan Walker, Nov. 14, 2023 5511:13-16, 5512:6-8

United States Egg Marketers, Inc.



INJURY

United States Egg Marketers, Inc.



The Effect of the Exports was "Sporadic" and "Short-Lived"



Dr. Michael Baye

Q. And did you also attempt to analyze whether the defendants' coordinated exports impacted egg prices?

A. I did, yes.

Q. And were you able to estimate any effects from the exports using an econometric model?

A. I was not, no.

Q. And why not?

A. Again, the exports, the export programs were sporadic. They were short-lived. They occurred at individual points in time dating back well before the periods that we're talking about for the UEP certification program.

Testimony of Micheal Baye at 2590:12-21

The Effect of the Exports was "Sporadic" and "Short-Lived"



Dr. Michael Baye

... With that many -- you know, I mean, there's not a ton of them, but with **that many kind of random events through there, it's impossible to identify those while controlling adequately for everything else**, the time trends and stuff. So I was unable to use an econometric model to do that.

Testimony of Micheal Baye at 2590:23-2591:2

Dr. Baye's Analysis of Exports

Price Effects of USEM Coordinated Exports: 2006-2008

Month	Quantity Exported			U.S. Egg Consumption -----(Dozens)-----	Percent Decrease in Domestic Sales Due to Coordinated Export	Percent Increase in Price Due to Coordinated Export
	Containers	Cases	Dozens			
(a)	(b)	(c)	[30*(d)] (d)	(e)	$[-(d)/(d)+(e)]$ (f)	$[(1+(f))^{(-6.11)}-1]$ (g)
October-06	90	76,500	2,295,000	552,263,416	-0.41 %	2.57 %
January-07	300	246,600	7,398,000	538,780,322	-1.35	8.69
February-07	300	243,750	7,312,500	487,190,666	-1.48	9.53
April-07	200	160,000	4,800,000	524,758,489	-0.91	5.72
October-07	130¹	166,663	3,180,003	546,598,343	-6.58	3.61
June-08	100	80,000	2,400,000	510,075,868	-0.47	2.91

Note: Percent increase in price calculated using an inverse elasticity of -6.11076 for Northwest White Jumbo Shell, the most elastic demand estimated from the 2SLS model.

¹ Number of cases estimated using average number of cases per container for available data.

Source: NL001776; MOARK0009486-93 at MOARK0009486; NL001774-5 at NL001774; MOARK0008660-69 at MOARK0008660; UE0199809-10 at UE0199809, UE0199810; RA0000703-10 at RA0000703, RA0000704; RA0002299-306 at RA0002299; MOARK0007450-1 at MOARK0007450; MOARK0036622-3 at MOARK0036622; MOARK-IPP-0028504-5 at MOARK-IPP-0028504, MOARK-IPP-0028505; USDA.

Source: Baye Rep. Ex. 26

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Dr. Baye Can Only Provide A **"Very Crude Estimate"** on the Impact of Exports on Egg Prices



Dr. Michael Baye

Q. And can you explain slide 22 to the jury, please?

A. Yes. So all this slide shows is that if you look at exports between -- the export program between 2006 and 2008, this identifies the number of containers and cases and the dozens of eggs involved. And if you ask the question, if these eggs were taken off of the U.S. market, how material would that be relative to total U.S. consumption of eggs in each of those months. Okay.

And so what you see there in the second-to-last column, it says, "Percentage decrease in domestic sales due to coordinated export," that's indicating how much domestic output fell because these eggs were being shipped overseas instead of being sold in the domestic market. **And based on those reductions, I can come up with kind of a very crude estimate of how much that would have impacted domestic egg prices.** Okay. And again, I just used the inverse elasticities of demand to do that.

Testimony of Micheal Baye at 2591:16-2592:7

United States Egg Marketers, Inc.



2. Do you find that the conspiracy included the following conduct?

A. Early Slaughter, Early Molting, and Flock Reduction
(i.e., the so-called Short-Term Measures).

YES _____ NO _____

B. Exports as Part of the USEM Export Program

YES _____ NO _____

C. Cage Space or Henhouse Density Restrictions as Part of the
UEP Certified Program

YES _____ NO _____

D. Restricting Backfilling of Egg-Producing Hens as Part of the
UEP Certified Program

YES _____ NO _____

United States Egg Marketers, Inc.



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A. Early Slaughter, Early Molting, and Flock Reduction
(i.e., the so-called Short-Term Measures).

YES _____ NO _____

B. Exports as Part of the USEM Export Program

YES _____ NO **X** _____

C. Cage Space or Henhouse Density Restrictions as Part of the
UEP Certified Program

YES _____ NO _____

D. Restricting Backfilling of Egg-Producing Hens as Part of the
UEP Certified Program

YES _____ NO _____

United States Egg Marketers, Inc.



3. Do you find that the following Defendants participated in the conspiracy to restrict the supply of eggs?

Cal-Maine Foods

YES _____

NO _____

Rose Acre Farms

YES _____

NO _____

United Egg Producers

YES _____

NO _____

United States Egg Marketers

YES _____

NO _____

United States Egg Marketers, Inc.



3. Do you find that the following Defendants participated in the conspiracy to restrict the supply of eggs?

Cal-Maine Foods

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NO _____

Rose Acre Farms

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NO _____

United Egg Producers

YES _____

NO _____

United States Egg Marketers

YES _____

NO **X** _____

United States Egg Marketers, Inc.



THANK YOU!